

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON**

STEPHANIE A. TASHIRO-TOWNLEY AND )  
SCOTT C. TOWNLEY, husband and wife )

Case No. 2:10-cv-01720-JCC

V.

COUNTRYWIDE MORTGAGE COMPANY  
(and its subsidiaries); BAC HOME LOANS;  
MORTGAGE ELECTRONIC  
REGISTRATION SYSTEMS INC.; LITTON  
LOAN SERVICING LLP; BANK OF NEW  
YORK MELLON f/k/a BANK OF NEW  
YORK, TRUSTEE FOR  
CERTIFICATEHOLDERS CWL, INC. 2005-  
10; And other unknown (at this juncture)  
parties, herein designated as DOES 1 through  
100

**DEFENDANTS' BANK OF NEW  
YORK MELLON, LITTON LOAN  
SERVICING, AND MORTGAGE  
ELECTRONIC REGISTRATION  
SYSTEMS' MOTION FOR  
SANCTIONS PURSUANT TO F.R.C.P.  
26(g)**

Hearing Date: February 4, 2011

## **I. RELIEF REQUESTED**

COMES NOW Defendants The Bank of New York Mellon f/k/a The Bank of New York as Trustee for the Certificateholders CWL, Inc. Asset-Backed Certificates, Series 2005-10 (“Bank of New York,” erroneously named in the Complaint), Litton Loan Servicing, LP (“Litton,” erroneously named in the Complaint), and Mortgage Electronic Registration Systems, Inc. (“MERS”), collectively “Defendants,” and move this court for an order granting sanctions against Plaintiffs pursuant to F.R.C.P. 26(g).

## II. STATEMENT OF THE FACTS

On November 16, 2010, Plaintiffs filed their original Complaint. *See* Dkt. No. 10. On December 3, 2010, Plaintiffs appeared at the office of non-party Northwest Trustee Services, Inc. with an alleged subpoena demanding inspection of documents. *See* Exhibit 1.

On December 8, 2010, the Court set a discovery scheduling conference for February 15, 2011. *See* Dkt. No. 17. On January 6, 2011, the Court issued an Order granting Plaintiffs' motion to amend their Complaint. *See* Dkt. No. 29. Said Amended Complaint has not been served on Defendants.

On or about January 11, 2011, Plaintiffs served Defendants' counsel with their "First Interrogatories and Requests for Production" to Defendant Bank of New York. *See* Exhibit 2. Both Plaintiffs signed this demand.

### III. ISSUE PRESENTED

1. Whether the Court should grant sanctions against Plaintiffs for improper discovery demands?

#### IV. EVIDENCE RELIED UPON

Defendants respectfully request that the Court consider, in ruling upon this motion:

1. The argument contained herein, and exhibits attached hereto;
2. Sworn Declaration of Counsel. *See* Exhibit 3.

## V. AUTHORITY AND ARGUMENT

## A. TIMING AND CERTIFICATION OF DISCOVERY

F.R.C.P. 26(d) provides that:

a party may not seek discovery from any source before the parties have conferred as required by Rule 26(f), except in a proceeding exempted from initial disclosure under Rule 26(a)(1)(B), or when authorized by these rules, by stipulation, or by court order.

1 Under F.R.C.P. 26(f), the parties “must confer as soon as practicable – and in any event at least  
 2 21 days before a scheduling conference is to be held or a scheduling order is due under Rule  
 3 16(b).”

4 F.R.C.P. 26(g)(1) states, in relevant part,  
 5

6 [e]very disclosure under Rule 26(a)(1) or (a)(3) and every discovery request, response, or  
 7 objection must be signed... by the party personally, if unrepresented.... By signing, an  
 8 attorney or party certifies that to the best of the person’s knowledge, information, and  
 9 belief formed after a reasonable inquiry:

10 [...]  
 11

12 (B) with respect to a discovery request, response, or objection, it is:  
 13

- 14 (i) consistent with these rules and warranted by existing law or by a nonfrivolous  
 argument for extending, modifying, or reversing existing law, or for establishing new  
 law;
- 15 (ii) not interposed for any improper purpose, such as to harass, cause unnecessary  
 delay, or needlessly increase the cost of litigation; and
- 16 (iii) neither unreasonable nor unduly burdensome or expensive, considering the needs  
 of the case, prior discovery in the case, the amount in controversy, and the  
 importance of the issues at stake in the action.

17 Failure to adhere to this rule without substantial justification requires the Court to impose “an  
 18 appropriate sanction on the signer,” which can include “reasonable expenses, including  
 attorney’s fees, caused by the violation.” *See* F.R.C.P. 26(g)(3).

19 **B. PLAINTIFFS’ INTERROGATORIES AND REQUESTS FOR  
 20 PRODUCTION ARE NOT PROPOUNDED IN ACCORDANCE WITH  
 21 COURT RULES**

22 In this case, Plaintiffs served discovery demands on Defendants’ counsel in violation of  
 23 F.R.C.P. 26(d)(1). Plaintiffs have thus far refused to communicate with Defendants’ counsel  
 24 telephonically; as such, the parties have been unable to confer in advance of the scheduling  
 25 conference. Moreover, Defendants have not been served with Plaintiffs’ Amended Complaint,  
 26 making any response thereto impracticable.

1           Additionally, Plaintiffs' discovery demands are wholly frivolous and overbroad, in light  
 2 of the claims presented. Plaintiffs demand everything from the production of an "original blue  
 3 ink adjustable rate note," to title insurance documents, IRS documents, and various accounting  
 4 procedures. *See Exhibit 2.* If Plaintiffs' demands did not violate the above-referenced Court  
 5 Rules, then Defendants would certainly bring a motion for protective order pursuant to F.R.C.P.  
 6 26(c).

8           **C.       THE COURT SHOULD SANCTION PLAINTIFFS**

9           Defendants ask the Court to impose sanctions against Plaintiffs for their improper and  
 10 untimely discovery demands, which have resulted in the additional time and expense of review  
 11 and this response. As set forth in the attached Declaration of Counsel, attorneys' fees for said  
 12 work have been incurred in the amount of \$370.50. *See Exhibit 3.*

13           Additionally, the Court should strike Plaintiffs' "First Interrogatories and Requests for  
 14 Production," and not require Defendants to answer them. Upon proper service of Plaintiffs'  
 15 Amended Complaint, Defendants intend to file a dispositive motion pursuant to F.R.C.P.  
 16 12(b)(6), and it would be unduly burdensome to require discovery responses prior to  
 17 consideration of such pleading.

19           **VI.      CONCLUSION**

20           Plaintiffs have violated F.R.C.P. 26(d)(1) and advanced unwarranted discovery demands  
 21 on Defendants. Plaintiffs should be held accountable for these willful actions.

23           //

24           //

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## **VII. PROPOSED ORDER**

A proposed order granting the requested ruling accompanies this motion.

DATED this 1945 day of January, 2011.

## **ROUTH CRABTREE OLSEN, P.S.**

Joshua S. Schaer, WSBA #31491

Attorneys for The Bank of

Attorneys for The Bank of New York  
Mellon f/k/a The Bank of New York as  
Trustee for the Certificateholders CWL, Inc.  
Asset-Backed Certificates, Series 2005-10;  
Litton Loan Servicing, LP; and Mortgage  
Electronic Registration Systems, Inc.

**DEFENDANTS' MOTION FOR SANCTIONS  
PURSUANT TO F.R.C.P. 26(g) - 5**

ROUTH  
CRABTREE  
OLSEN, P.S.

13555 SE 36th St., Ste 300  
Bellevue, WA 98006  
Telephone: 425.458.2121  
Facsimile: 425.458.2131

AO88 (Rev. 12/06) Subpoena in a Civil Case

Issued by the  
UNITED STATES DISTRICT COURT

Western

DISTRICT OF

Washington

Scott C Townley / Stephanie A Tashiro-Townley

## SUBPOENA IN A CIVIL CASE

V.

BANK OF NEW YORK MELLON

Case Number:<sup>1</sup> C10-1720

TO: Northwest Trustee Services  
13555 SE 36th Avenue, #100  
Bellevue, WA 98006

YOU ARE COMMANDED to appear in the United States District court at the place, date, and time specified below to testify in the above case.

PLACE OF TESTIMONY	COURTROOM
	DATE AND TIME

YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION	DATE AND TIME

YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

Stamp all documents certified in Foreclosure File - Written Notice of Default, Transmitted to Beneficiary and Grantor, Evidence of first class mail and certified mail on or before Copy of Process Server, Copy of Advertisements in public journals, newspapers, etc., Certified copy of financial statement, and any other papers in the file for 23639 SE 267th pl.

Maple Valley wa 98038

PLACE	Northwest Trustee Services, Inc., 13555 SE 36th Place #100, Bellevue, WA 98006	DATE AND TIME
		12/3/2010 8:30 am

YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES	DATE AND TIME

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30(b)(6).

ISSUING OFFICER'S SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)	DATE
	12/3/10

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER
23639 SE 267th pl. Maple Valley wa 98038

(See Rule 45, Federal Rules of Civil Procedure. Subdivisions (c), (d), and (e), on next page)

<sup>1</sup> If action is pending in district other than district of issuance, state district under case number.

THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON

10 SCOTT C. TOWNLEY )  
11 STEPHANIE A. TASHIRO- )  
12 TOWNLEY )  
13 Plaintiffs, )  
14 vs. )  
15 COUNTRYWIDE MORTGAGE )  
16 COMPANY (and its )  
17 subsidiaries); BAC HOME )  
18 LOANS; MORTGAGE ELECTRONIC )  
19 REGISTRATION SYSTEMS INC.; )  
20 LITTON LOAN SERVICING LLP; )  
21 BANK OF NEW YORK MELLON, )  
22 f/k/a BANK OF NEW YORK, )  
23 TRUSTEE FOR CERTIFICATE )  
HOLDERS CWL, INC., 2005-10; )  
\\ )  
And other unknown (at this )  
juncture) parties, herein )  
designated as DOES 1 )  
through 100 )  
No. C10-1720

### Defendants

C10-1720 - FIRST INTERROGATORIES AND  
REQUEST FOR PRODUCTION - BANK OF NEW  
YORK MELLON

Scott C. and Stephanie Tashiro-Townley  
23639 SE 267<sup>th</sup> Place,  
Maple Valley, WA 98038

1 To: BANK OF NEW YORK MELLON, f/k/a BANK OF NEW  
2 YORK, TRUSTEE FOR CERTIFICATE HOLDERS CWL, INC., 2005-  
3 10, by and through Attorney of record Joshua Schaer  
4 COMES NOW Plaintiffs Scott C Townley and  
5 Stephanie A Tashiro-Townley (hereinafter "plaintiffs")  
6 and hereby propound the following interrogatories and  
7 requests for production to be answered by Defendant,  
8 BANK OF NEW YORK MELLON f/k/a BANK OF NEW YORK,  
9 TRUSTEE FOR CERTIFICATE HOLDERS CWL, INC., 2005-10  
10 under oath, and within thirty (30) days after service.

## INTRODUCTION AND DEFINITIONS

14 A. Identification of Documents, Communications, and  
15 Persons

16 1. When asked to identify a document, please do the  
17 following, unless you are producing the document and  
18 this information is available on the document  
19 produced.

20 (a) Identify the author;  
21 (b) Identify the addressee;  
22 (c) Identify all persons who received copies;  
23 (d) Identify all persons who currently have copies  
24 (e) If a responsive document not longer exists or is  
25 not available, when was it disposed of, and who  
26 disposed of it;  
27 (f) State the date the document was created;  
28 (g) State the subject matter of the document

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YORK MELLON

Scott C. and Stephanie Tashiro-Townley  
23639 SE 267<sup>th</sup> Place,  
Maple Valley, WA 98038

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4 **B. Claim of Privilege.**

5 If you claim any privilege with respect to any  
6 information sought by this or other discovery request,  
7 or any part thereof state the nature of the privilege  
8 claimed, state in full the basis for the claim of  
9 privilege, identify the communication, document, or  
10 other item as to which a privilege is claimed, and  
11 state the subject matter thereof. If you claim a  
12 privilege with respect to only a portion of a  
13 discovery request, please answer those portions of the  
14 request for which you do not claim a privilege.  
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**C. Definitions.**

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1. The word "describe" when used in reference to  
matters of fact means to state every material fact and  
circumstances specifically and completely (including,  
but not limited to, date, time, location and the  
identity of all participants) and whether each such  
fact or circumstance is stated on knowledge,  
information, or belief, or is alleged without  
foundation.

2. The words "document" shall mean any book,  
pamphlet, periodical, report, letter, memorandum,  
diary, message, telegram, email, cable, record, study,

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Maple Valley, WA 98038

1 chart, picture, drawing, sketch, photograph, index  
2 tape, videotape, or graphic matter however produced or  
3 reproduced.

4

5 **D. Duty to supplement requests/documents.**

6 1. The following requests for production are  
7 continuing and require you, to the extent required by  
8 Cr 26(e), to supplement the production with additional  
9 documents if you, your employer, your fellow  
10 employees, any associates, agents, affiliates, casual  
11 acquaintances, or attorneys gain access to additional  
12 information/documents, which may be responsive to  
13 these requests. In other words, any information or  
14 documents you think of or gain access to or gain  
15 knowledge to/about after submitting responses to the  
16 instant requests or completed document to the  
17 plaintiff then you, your employer, your fellow  
18 employees, any associates, agents, affiliates, casual  
19 acquaintances, or attorneys are obligated to produce  
20 said additions for/to plaintiff.

21 2. Also, consistent with Washington's  
22 interpretations of discovery, whereas, the spirit and  
23 intent of discovery is that parties should make all  
24 efforts to communicate in said discovery process in  
25 order to avoid court involvement in accessing  
26 discovery, therefore, please contact the plaintiff if  
27 you have any questions regarding the instant discovery

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30 C10-1720 - FIRST INTERROGATORIES AND  
REQUEST FOR PRODUCTION - BANK OF NEW  
YORK MELLON

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Maple Valley, WA 98038

1 submission as that relates to any confusing  
2 perceptions, vagueness, ambiguous, defective, etc.,  
3 you believe exists which might delay production of  
4 said instant requests. As such, please feel free to  
5 contact the plaintiff promptly with any questions you  
6 may have before the expiration of 30 days (thirty  
7 days) from receipt of the instant document.

8 3. Note: The requests for production of documents is  
9 predicated on the reasonable conclusion the Defendant  
10 obtains and/or utilizes documents in the normal course  
11 of business; albeit, within its day to day activities  
12 through managing the said trust (CWL, Inc. Asset-  
13 Backed Certificates, Series 2005-10), including all  
14 documents regarding the conveyance and insurance of  
15 those mortgages; inclusion of mortgages into mortgage  
16 pools before Pooling and Servicing Agreement (PSA)  
17 close date; any and all documents required by the  
18 Securities and Exchange Commission (SEC) and the  
19 Office of the Comptroller (OCC) in managing trusts and  
20 the mortgage pools within; and any tax documentation  
21 filed with the IRS pertaining to taxes paid on  
22 proceeds made by the selling of trust.  
23

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25  
26 **YOU ARE HEREBY DIRECTED to produce the following**  
27 **designated documents, objects, tangible things,**  
28 **and/or electronically stored information, etc., in**  
29  
30

C10-1720 - FIRST INTERROGATORIES AND  
REQUEST FOR PRODUCTION - BANK OF NEW  
YORK MELLON

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1 ***your possession or under your control or access***  
2 ***regarding the following listed items:***

3  
4 **REQUEST FOR PRODUCTION NO. 1:** Produce the original  
5 blue ink Adjustable Rate Note for the property  
6 commonly known as: "23639 SE 267<sup>th</sup> Place, Maple Valley,  
7 WA 98038" (hereafter designated as "subject  
8 property"). This includes copies of the front and  
backsides of the documents/note showing all  
endorsements and chain of title.

9 **RESPONSE:**

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13 **REQUEST FOR PRODUCTION NO. 2:** Produce the original  
14 Assignment of Mortgage document transferring the  
15 Adjustable Rate Note for the subject property from  
16 Countrywide to Bank of New York Mellon. Note, if  
17 properly filed in the King County Recorder office, the  
document will show the date designating when it was  
filed.

18 **RESPONSE:**

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23 **REQUEST FOR PRODUCTION NO. 3:** Produce a certified copy  
24 the original Pooling and Servicing Agreement for CWL  
25 Inc., Asset Backed Certificates, Series 2005-10 from  
26 the year 2005, noting claims relevant to the subject  
27 property and/or claims against said subject property  
which will contain a valid SEC filing date and number.

28 **RESPONSE:**

30 C10-1720 - FIRST INTERROGATORIES AND  
REQUEST FOR PRODUCTION - BANK OF NEW  
YORK MELLON

Scott C. and Stephanie Tashiro-Townley  
23639 SE 267<sup>th</sup> Place,  
Maple Valley, WA 98038

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4 **REQUEST FOR PRODUCTION NO. 4:** Produce a certified copy  
5 of the original "Right of Rescission" document  
6 allegedly disclosed to Plaintiffs after the transfer  
7 of the Adjustable Rate Note for the subject property  
8 stating transfer of loan from Countrywide to Bank of  
9 New York Mellon; including with a sworn affidavit  
stating who sent it, the date said document was sent  
and to whom (the entity and agent's name) said  
document was sent.

10 RESPONSE:  
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15 **REQUEST FOR PRODUCTION NO. 5:** Produce a certified copy  
16 of the original for all extensions and addendums  
17 relating to the Pooling and Servicing Agreement for  
CWL Inc. Asset Backed Certificates, Series 2005-10  
from 2005 to current date.

18 RESPONSE:  
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22 **REQUEST FOR PRODUCTION NO. 6:** Produce all Securities  
23 Exchange Commission (SEC) filings for the Trust CWL  
24 Inc. Asset Backed Certificates, Series 2005-10  
25 including but not limited to Forms 8K and 10K from  
2005 to current with a sworn affidavit by the Bank of  
26 New York Mellon employee responsible for filing all of  
27 the SEC filings stating the name of the documents  
filed, the date said documents were filed and a brief  
description of the contents of said documents.

28 RESPONSE:  
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C10-1720 - FIRST INTERROGATORIES AND  
REQUEST FOR PRODUCTION - BANK OF NEW  
YORK MELLON

Scott C. and Stephanie Tashiro-Townley  
23639 SE 267<sup>th</sup> Place,  
Maple Valley, WA 98038

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5 **REQUEST FOR PRODUCTION NO. 7:** Produce a certified copy  
6 of the original Declaration of Beneficiary document  
7 with a signed sworn affidavit stating when the  
document was created, name and address it was sent to  
8 and the date it was sent.

9

RESPONSE:

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14 **REQUEST FOR PRODUCTION NO. 8:** Produce a certified copy  
15 of the current lenders; namely, Bank of New York  
16 Mellon's title insurance policy supporting ownership  
17 (in due course) of the Adjustable Rate Note regarding  
the subject property (for your clarification said  
"note" is assumed to designate the amount of  
+\$297,000).

18

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RESPONSE:

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23 **REQUEST FOR PRODUCTION NO. 9:** Produce a certified copy  
24 of the servicing agreement between Bank of New York  
25 Mellon and Countrywide (servicing branch) from the  
year 2005 as said service agreement would relate to  
the authority the subject property and the contractual  
agreement to service said subject property.

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RESPONSE:

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REQUEST FOR PRODUCTION - BANK OF NEW  
YORK MELLON

Scott C. and Stephanie Tashiro-Townley  
23639 SE 267<sup>th</sup> Place,  
Maple Valley, WA 98038

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4 **REQUEST FOR PRODUCTION NO. 10:** Produce a certified  
5 copy of the servicing agreement between Bank of New  
6 York Mellon and Litton Loan Servicing from the year  
2008 to the present regarding the subject property.

7 **RESPONSE:**  
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12 **REQUEST FOR PRODUCTION NO. 11:** Produce the original or  
13 a certified copy of the original Prospectus for the  
14 trust CWL, Inc., Asset Based Certificates, Series  
15 2005-10 and the Pooling and Collateral agreement  
16 and/or Servicing Participation Agreement between Bank  
17 of New York Mellon and the following servicers:  
Countrywide, Litton Loan and/or MERS from 2005 to  
date.

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19 **RESPONSE:**  
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23 **REQUEST FOR PRODUCTION NO. 12:** Produce the certified  
24 copy of the original title insurance policy showing  
25 the coverage and conveyance of ownership of the  
26 subject property from Countrywide to Bank of New York  
27 Mellon that shows the full conveyance of the  
28 Adjustable Rate Note assumed, including the Indemnity  
for insurance and the insurance itself from 2005 to  
the present regarding the subject property.

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30 C10-1720 - FIRST INTERROGATORIES AND  
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YORK MELLON

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Maple Valley, WA 98038

1 RESPONSE:

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5 **REQUEST FOR PRODUCTION. 13:** Produce certified copy of  
6 IRS documents, including but not limited to, form 1066  
7 and IRS documents showing the amount of revenue from  
8 sales and interest earned regarding CWL, Inc. Asset-  
9 Backed Certificates, Series 2005-10 from 2005 through  
10 2009 and sworn affidavit by Bank of New York Mellon  
11 tax accountant with the dates of submission /  
12 transmittal to the IRS and confirmation of receipt  
13 from IRS of said documents.

14 RESPONSE:

15  
16 **INTERROGATORY NO. 1:** Please state the names, addresses  
17 and contact information for the President, Vice  
18 President, and Executive Vice Presidents of Defendant  
19 Bank New York Mellon from 2005 to 2010.

20 RESPONSE:

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23  
24 **REQUEST FOR PRODUCTION NO. 14:** Produce copies all  
25 correspondence(s), email(s), offer(s)s, contract(s),  
26 negotiation(s) between Bank of New York Mellon and  
27 Countrywide from July 1, 2005 through December 31,  
28 2005, related to the sale/acquisition of the  
29 Adjustable Rate Note regarding the subject property,  
for the inclusion in the CWL, Inc. Asset-Backed  
Certificates, Series 2005-10 mortgage pool by

30 C10-1720 - FIRST INTERROGATORIES AND  
REQUEST FOR PRODUCTION - BANK OF NEW  
YORK MELLON

Scott C. and Stephanie Tashiro-Townley  
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Maple Valley, WA 98038

1 Defendant Bank of New York Mellon from Countrywide  
2 Home Loans.

3 RESPONSE:

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7 **REQUEST FOR PRODUCTION NO. 15:** Produce a certified  
8 copy of the original final contract, including terms  
9 and conditions of the sale of Adjustable Rate Note for  
10 the subject property from Countrywide to Bank of New  
York Mellon in 2005.

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16 **REQUEST FOR PRODUCTION NO. 16:** Produce copies of all  
17 correspondence(s), email(s), offer(s), contract(s),  
18 negotiation(s) between Bank of New York Mellon and  
19 Litton Loan Servicing from June 2008 to August 2009,  
20 related to the Plaintiffs' loan modification and loss  
mitigation requests regarding loan for subject  
property.

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26 **REQUEST FOR PRODUCTION NO. 17:** Produce copies of all  
27 correspondence(s), email(s), contract(s), and/or  
28 negotiation(s) between Bank of New York Mellon and  
29 Northwest Trustee regarding the Appointment of  
Successor Trustee from January 2009 to August 2009  
regarding the subject property—including any money or

30

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REQUEST FOR PRODUCTION - BANK OF NEW  
YORK MELLON

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1 monies having changed hands between the aforementioned  
2 entities.

3 RESPONSE:

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5

6 **REQUEST FOR PRODUCTION NO. 18:** Produce certified  
7 copies of General Accepted Accounting Procedures  
8 (GAAP) as regulated by the Office of the Comptroller  
9 (OCC) regarding the deposit loan account #109684989,  
whether interest-bearing and/or non-interest bearing  
10 account(s), escrow(s), reserve(s) and suspense  
11 account(s) managed by Defendant Bank of New York  
12 Mellon as serviced by Countrywide and Litton Loan  
Servicing during the servicing of the subject  
property's loan from years 2005 through 2009.

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17 **REQUEST FOR PRODUCTION NO. 19:** Produce certified  
18 copies of all original documentation and full  
19 accounting regarding all monies paid and received at  
20 the time of transfer of ownership from Countrywide to  
21 Bank of New York Mellon of the Adjustable Rate Note  
22 showing "paid in full" for the subject property and,  
if available, also, the same, but not limited to  
parties, sources, agreements, and contracts, written  
or verbal.

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27 **REQUEST FOR PRODUCTION NO. 20:** Produce certified  
28 copies of all original documentation(s) and full  
29 accounting regarding all monies paid and received from

30 C10-1720 - FIRST INTERROGATORIES AND  
REQUEST FOR PRODUCTION - BANK OF NEW  
YORK MELLON

Scott C. and Stephanie Tashiro-Townley  
23639 SE 267<sup>th</sup> Place,  
Maple Valley, WA 98038

1 the point of transfer of ownership of the subject  
2 property to Bank of New York Mellon from 2005 through  
3 2010 not limited to parties, sources, agreements, and  
contracts, written or verbal.

4  
5 RESPONSE:

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9 **REQUEST FOR PRODUCTION. 21:** Produce certified copies  
10 of all original documentation related to the Committee  
11 on Uniform Security Identification Procedures (CUSIP)  
numbers for the Plaintiffs Scott C Townley and  
12 Stephanie A Tashiro-Townley as regulated by the Office  
of the Comptroller of the Currency (OCC).

13  
14 RESPONSE:

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19 **REQUEST FOR PRODUCTION NO. 22:** Produce a certified  
copy of the names of investors, individuals, other  
20 banks, governments, pension funds that the CWL, Inc.  
21 Asset Backed Certificates, Series 2005-10 were sold  
22 to, the contact information for the "buyers", the  
revenue generated by each individual "sale" and the  
date of sale.

23  
24 RESPONSE:

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28 **REQUEST FOR PRODUCTION. 23:** Produce a certified copy  
29 of GAAP accounting documentation for all monies

30 C10-1720 - FIRST INTERROGATORIES AND  
REQUEST FOR PRODUCTION - BANK OF NEW  
YORK MELLON

Scott C. and Stephanie Tashiro-Townley  
23639 SE 267<sup>th</sup> Place,  
Maple Valley, WA 98038

1 received for sales of CWL, Inc. Asset Backed  
2 Certificates, Series 2005-10 to trust funds, 401K  
3 retirement funds, etc. with dates of debits and  
4 credits, amounts of debits and credits and "Pay to the  
order of" information.

5 RESPONSE:

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10 **REQUEST FOR PRODUCTION NO. 24:** Produce a certified  
11 copy of the original IRS verification letter stating  
12 that Bank of New York Mellon is a Real Estate Mortgage  
13 Investment Conduit (REMIC) and the Publication 938  
14 from 2005-2006 showing Bank of New York Mellon as the  
REMIC for CWL Inc., Asset Backed Certificates, Series  
2005-10.

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16 RESPONSE:

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**REQUEST FOR PRODUCTION NO. 25:** Produce the final Title  
Insurance Policy complete with the "Indemnification  
Endorsement" that was issued as "Pool Insurance" as  
these policies are mandatory coverage(s) for these  
types of transactions (known as REMIC or REIT's) and  
that are issued between the Trust (Bank of New York  
Mellon representing the Investor) and the Servicer  
(Litton Loan) who administers the PSA (Pooling Service  
Agreement).

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25 RESPONSE:

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C10-1720 - FIRST INTERROGATORIES AND  
REQUEST FOR PRODUCTION - BANK OF NEW  
YORK MELLON

Scott C. and Stephanie Tashiro-Townley  
23639 SE 267<sup>th</sup> Place,  
Maple Valley, WA 98038

1 Presented by

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Scott C. Townley

Scott C Townley

Stephanie Tashiro-Townley

Stephanie Tashiro-Townley

1/11/11

Date

1/11/11

Date

C10-1720 - FIRST INTERROGATORIES AND  
REQUEST FOR PRODUCTION - BANK OF NEW  
YORK MELLON

Scott C. and Stephanie Tashiro-Townley  
23639 SE 267<sup>th</sup> Place,  
Maple Valley, WA 98038

Page 15<sup>1</sup> of 17<sup>1</sup>

Exhibit 2  
Page 15 of 17

## DECLARATION

I \_\_\_\_\_ am the authorized representative of BANK OF NEW YORK MELLON f/k/a BANK OF NEW YORK, TRUSTEE FOR CERTIFICATE HOLDERS CWL, INC., 2005-10, and declare under penalty of perjury under the laws of the state of Washington that I have read the foregoing answers to the requests for production, know the contents submitted thereof are true and correct certified copies and/or certified originals. In addition, I know the answers I stated in response to the interrogatories to be true and correct.

Signed by,

Date \_\_\_\_\_

In the County of \_\_\_\_\_, state of Washington

C10-1720 - FIRST INTERROGATORIES AND  
REQUEST FOR PRODUCTION - BANK OF NEW  
YORK MELLON

Scott C. and Stephanie Tashiro-Townley  
23639 SE 267<sup>th</sup> Place,  
Maple Valley, WA 98038

I \_\_\_\_\_ swear under  
oath the documents submitted hereto and/or attached  
hereto regarding the instant requests for production are  
true and correct certified copies and/or certified  
originals and the answers to the interrogatories herein  
are true and correct.

DATED: \_\_\_\_\_

I \_\_\_\_\_, a Notary  
Public, certify that I know or have satisfactory  
evidence showing that \_\_\_\_\_  
appeared before me and signed the above statement.

Notary Public

Seal

My commission expires \_\_\_\_\_

C10-1720 - FIRST INTERROGATORIES AND  
REQUEST FOR PRODUCTION - BANK OF NEW  
YORK MELLON

Scott C. and Stephanie Tashiro-Townley  
23639 SE 267<sup>th</sup> Place,  
Maple Valley, WA 98038

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON**

STEPHANIE A. TASHIRO-TOWNLEY AND )  
SCOTT C. TOWNLEY, husband and wife )  
Plaintiffs, )  
v. )  
COUNTRYWIDE MORTGAGE COMPANY )  
(and its subsidiaries); BAC HOME LOANS; )  
MORTGAGE ELECTRONIC )  
REGISTRATION SYSTEMS INC.; LITTON )  
LOAN SERVICING LLP; BANK OF NEW )  
YORK MELLON f/k/a BANK OF NEW )  
YORK, TRUSTEE FOR )  
CERTIFICATEHOLDERS CWL, INC. 2005- )  
10; And other unknown (at this juncture) )  
parties, herein designated as DOES 1 through )  
100 )

Case No. 2:10-cv-01720-JCC

**DECLARATION OF COUNSEL IN  
SUPPORT OF DEFENDANTS' BANK  
OF NEW YORK MELLON, LITTON  
LOAN SERVICING, AND  
MORTGAGE ELECTRONIC  
REGISTRATION SYSTEMS'  
MOTION FOR SANCTIONS  
PURSUANT TO F.R.C.P. 26(g)**

## Defendants.

1. I am an associate attorney at the law firm of Routh Crabtree Olsen, P.S. I have personal knowledge of the following facts as being true and correct.

2. I have reviewed the pleadings filed by Plaintiffs in this case, and the relevant documents related to the non-judicial foreclosure action of the property at issue.

3. On November 3, 2010, I left a voice mail message for Plaintiffs at 425-413-2367, asking them to contact me about this lawsuit.

DECLARATION OF COUNSEL IN SUPPORT OF  
DEFENDANTS' MOTION FOR SANCTIONS  
PURSUANT TO F.R.C.P. 26(g) - 1

ROUTH  
CRABTREE  
OLSEN, P.S.

13555 SE 36th St., Ste 300  
Bellevue, WA 98006  
Telephone: 425.458.2121  
Facsimile: 425.458.2131

Exhibit 3  
Page 1 of 2

4. I sent letters to Plaintiffs on November 8, 2010 and November 30, 2010. *See* Appendix 1.

5. As Plaintiffs failed to make any attempt to restrain the Trustee's Sale, the property at issue in this case was sold at a non-judicial foreclosure auction on December 3, 2010 to The Bank of New York Mellon f/k/a The Bank of New York as Trustee for the Certificateholders CWABS, Inc. Asset-Backed Certificates, Series 2005-10.

6. I have reviewed the Court's January 6, 2011 Order. To date, Plaintiffs have failed to serve the Defendants I represent with the Amended Complaint.

7. On or about January 11, 2011, I received, via U.S. Mail, Plaintiffs' First Interrogatories and Requests for Production.

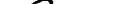
8. The time and corresponding attorney's fees for analyzing the aforementioned discovery demand, and filing a Motion for Sanctions is \$370.50, itemized as follows:

a) .2 hrs. @ \$195/hr.: received discovery demands and brief review with another litigation attorney;

b) .3 hrs. @\$195/hr.: reviewed and analyzed contents of discovery demands;

c) 1.4 hrs. @ \$195/hr.: drafted Motion for Sanctions, prepared exhibits.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct. This declaration was executed this 19<sup>th</sup> day of January, 2011 at Bellevue, Washington.

  
\_\_\_\_\_  
Joshua S. Schaer, Declarant

DECLARATION OF COUNSEL IN SUPPORT OF  
DEFENDANTS' MOTION FOR SANCTIONS  
PURSUANT TO F.R.C.P. 26(g) - 2

ROUTH  
CRABTREE  
OLSEN, P.S. | 13555 SE 36th St., Ste 300  
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Exhibit 3  
Page 2 of 2



13555 SE 36<sup>th</sup> St., Suite 300  
Bellevue, WA 98006

Telephone: 425.458.2121  
Fax: 425.458.2131  
www.rcolegal.com

Joshua Schaer  
Attorney  
Telephone: 425.457.7810  
Fax: 425.974.8680  
jschaer@rcolegal.com

November 8, 2010

Stephanie Tashiro-Townley & Scott Townley  
23639 Southeast 267<sup>th</sup> Place  
Maple Valley, WA 98038

Dear Mr. and Mrs. Townley:

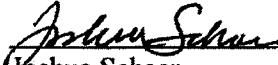
Please be advised that Routh Crabtree Olsen, P.S. has been hired to represent Litton Loan Servicing LP in the lawsuit you filed with the Western District Court of Washington (Case No. C10-1720).

Currently, the foreclosure action on the above-mentioned property has been placed on hold. For a status update, you may check with my office, or visit [www.usa-foreclosure.com](http://www.usa-foreclosure.com), as to whether the property is scheduled for sale.

I would again strongly advise you to consult legal counsel regarding your options. Please forward all future correspondence to my attention. If you have any questions, feel free to contact me directly.

Sincerely,

ROUTH CRABTREE OLSEN, P.S.

By:   
Joshua Schaer  
Attorney at Law

---

Phone: 425-413-2637  
Fax: 8664007824

# Fax

---

**To: Joshua Schaer**

**From: Stephanie Tashiro-Townley**

---

**Fax: 4259748680**

**Pages: 4**

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**Re: Lis Pendens - Townley**

**Date: November 30, 2010**

---

Mr. Schaer -

As a courtesy, we are providing you a copy of the Lis Pendens being filed in the County. Per the RCW, our home must be removed from the auction or if sold, NW Trustee and Routh Crabtree will be facing many violations and will be added to an amended complaint.

Be advised that I have sent a fax with the same information to Winston Khan the NW Trustee employee who signed our Amended Notice of Sale.

Thank you for your swift attention on this important matter.

Scott Townley

Stephanie Tashiro-Townley

23639 SE 267th Place, Maple Valley, WA 98038

Exhibit 3 - Appendix 1  
Page 2 of 3



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Joshua Schaer  
Attorney  
Telephone: 425.457.7810  
Fax: 425.974.8680  
[jschaer@rcolegal.com](mailto:jschaer@rcolegal.com)

November 30, 2010

Stephanie Tashiro-Townley & Scott Townley  
23639 Southeast 267<sup>th</sup> Place  
Maple Valley, WA 98038

Dear Mr. and Mrs. Townley:

Please be advised that a lis pendens is not a legally proper means of restraining a trustee's sale. I had previously recommended that you seek counsel, who might have provided relevant expertise concerning the Deed of Trust Act (RCW 61.24). I also asked you to contact me directly to discuss the availability of alternatives to foreclosure.

However, it appears you have chosen to continue representing yourselves, and you have not been amenable to a productive conversation. Your threats against this firm and the trustee are not well-taken in light of your ineffective attempt to prevent the property sale. Additional claims will be met with responsive motions, and we reserve the right to pursue sanctions, attorneys' fees, or other permissible remedies.

My letter dated November 8, 2010 was correct – the file was on hold at that time, and you were invited to check back for a status update. Subsequently, the trustee was instructed to proceed again with foreclosure activities. Currently, the sale is scheduled for December 3, 2010. The website [usa-foreclosure.com](http://usa-foreclosure.com) can provide you with information should that date change.

If you have other questions, feel free to contact me directly.

Sincerely,

ROUTH CRABTREE OLSEN, P.S.

By:

  
Joshua Schaer  
Attorney at Law